

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:07-CV-244-BR**

CUSTOM PAK, INC.,)	
)	
Plaintiff,)	
)	
v.)	ORDER
)	
JAMES EARL STANCIL, individually,)	
and d/b/a PRODUCE CONNECTION and)	
DENNIS ENNIS, individually,)	
)	
Defendants.)	

This matter is before the court on plaintiff's motion for default judgment.

On 4 September 2007, the Clerk entered default against defendants. Plaintiff filed the instant motion 14 December 2007, serving defendants on the same date via regular U.S. mail. Defendants have not filed any response to the motion.

Plaintiff has asserted claims for enforcement of the Perishable Agricultural Commodities Act ("PACA") Trust, 7 U.S.C. § 499e(c), violation of PACA, 7 U.S.C. § 499b(4), breach of contract, and breach of fiduciary duty, all related to defendants' failure to pay for produce that plaintiff sold to defendants.¹ Plaintiff seeks \$166,647.69, which represents the total of the invoices plaintiff issued to defendants, less \$25,000 defendants paid to plaintiff, plus interest on the invoiced amounts, attorneys' fees, and costs. Because interest, attorneys' fees, and costs were bargained for in the parties' contract, (see Mot., Ex. A & Group Ex. A), plaintiff is entitled to recover such amounts as "sums owing in connection with [perishable agricultural commodities] transactions"

¹Defendants are deemed to have admitted the factual allegations of the complaint. See Ryan v. Homecomings Financial Network, 253 F.3d 778, 780 (4th Cir. 2001).

under 7 U.S.C. § 499e(c)(2), see Country Best v. Christopher Ranch LLC, 361 F.3d 629, 632-33 (11th Cir. 2004); Middle Mountain Land & Produce Inc. v. Sound Commodities Inc., 307 F.3d 1220, 1223-24 (9th Cir. 2002); Atlantic Coast Produce, Inc. v. McDonald Farms, Inc., No. 5:04CV15, 2005 WL 1785134, *6 (W.D. Va. July 25, 2005).

Plaintiff's motion is GRANTED. It is therefore ORDERED, ADJUDGED, and DECREED that plaintiff shall have and recover of defendants James Earl Stancil, individually and d/b/a Produce Connection, and Dennis Ennis, jointly and severally, the amount of \$166,647.69, with interest thereon at the contract rate of 1.5% per month from 11 December 2007 until the date of entry of this judgment,² and interest on the total amount at the legal rate of 2.23% per annum in accordance with 28 U.S.C. § 1961 from the date of entry of this judgment until paid.

This 8 February 2008.

A handwritten signature in green ink, appearing to read "W. Earl Britt", is written over a horizontal line.

W. Earl Britt
Senior U.S. District Judge

²Plaintiff calculated prejudgment interest due through 10 December 2007. (See Mot., Group Ex. A.) Plaintiff is entitled to additional prejudgment interest from that time until entry of judgment.